

Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)	
)	
Request for Waiver by)	
)	
Stafford Public Schools)	File No. SLD-250435
Stafford Springs, Connecticut)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER**Adopted: February 24, 2004****Released: February 25, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. Before the Telecommunications Access Policy Division is a Request for Waiver by Stafford Public Schools (Stafford), Stafford Springs, Connecticut.¹ Stafford seeks waiver of the October 28, 2001 deadline for filing FCC Form 486 in Funding Year 2001 of the schools and libraries universal service support mechanism.² For the reasons set forth below, we grant the Request for Waiver, and the application is remanded to the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) for further action consistent with this Order.

2. Stafford filed its FCC Form 486 on August 2, 2001, more than two months before the October 28, 2001 deadline, but did not file the correct OMB-approved Form 486 dated July 2001.³ However, SLD did not notify Stafford of the problem with its form until SLD mailed notice on October 22, 2001, shortly before the October 28, 2001 deadline.⁴ Stafford filed the

¹ Letter from Jill Klum, Stafford Public Schools, to Federal Communications Commission, filed November 5, 2002 (Request for Waiver).

² See Request for Waiver. Section 1.3 of the Commission's rules provides that the Commission may waive any provision of its rules if good cause is shown. 47 C.F.R. § 1.3.

³ See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jill Klum, Stafford Public Schools, dated October 17, 2002.

⁴ See Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jill Klus, Stafford Public Schools, dated October 22, 2001.

correct FCC Form 486 on October 30, 2001, after the October 28, 2001 deadline.⁵ Consequently, SLD awarded funding for services starting October 30, 2001, rather than July 1, 2001.⁶

3. A rule may be waived where the particular facts make strict compliance inconsistent with the public interest.⁷ In addition, the Commission may take into account considerations of hardship, equity, or effective implementation of overall policy on an individual basis.⁸ In sum, waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.⁹

4. Consistent with our precedent in the *Eastern Lebanon Order*, we conclude that Stafford's request for discounts on telecommunications services presents special circumstances warranting a waiver of our rules.¹⁰ As was the case in the *Eastern Lebanon Order*, Stafford made a good faith effort to comply with the deadline by filing its original FCC Form 486 early in the funding year and by filing the corrected version shortly after being apprised of the mistake.¹¹ Moreover, the deadline involved a first-time information request.¹² Stafford also sought discounts only for telecommunications services, and the Commission has authority to waive the deadline with respect to requests that involve only telecommunications services.¹³

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and

⁵ See FCC Form 486, Stafford Public Schools, postmarked October 30, 2001.

⁶ Under the Children's Internet Protection Act, Funding Year 2001 applicants were required to file their FCC Forms 486 by no later than October 28, 2001, unless their service began after that date or a funding commitment decision letter was issued after that date. See 47 U.S.C. §§ 254(h)(5)(E), 254(h)(6)(E); *Federal-State Joint Board on Universal Service, Children's Internet Protection Act*, CC Docket No. 96-45, Report and Order, 16 FCC Rcd 8182, 8188-89, 8191, paras. 10, 18 (2001). A Funding Year 2001 applicant with a funding commitment decision letter who failed to meet the October 28, 2001 deadline could obtain discounts only for services received on or after the date that its FCC Form 486 was postmarked. See *Schools and Libraries Universal Service, Receipt of Service Confirmation Form*, OMB 3060-0853 (July 2001) (FCC Form 486); *Instructions for Completing the Schools and Libraries Universal Service, Receipt of Service Confirmation Form* (FCC Form 486), OMB 3060-0853 (July 2001) at 9 (Form 486 Instructions).

⁷ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*).

⁸ *WAIT Radio*, 418 F.2d 1027, 1157 (1972) (*WAIT Radio*).

⁹ *Northeast Cellular*, 897 F.2d at 1166.

¹⁰ See *Request for Review by Eastern Lebanon County School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-232946, CC Docket Nos. 96-45 and 97-21, Order, 18 FCC Rcd 5466 (Wireline Comp. Bur. 2003) (*Eastern Lebanon Order*) (granting waiver request for telecommunications services for Funding Year 2001 where SLD unduly delayed notifying applicant of incomplete FCC Form 486).

¹¹ See *id.*; Request for Waiver.

¹² See *Eastern Lebanon Order*; Request for Waiver.

¹³ See *Eastern Lebanon Order*.

54.722(a), that the Request for Waiver filed by Stafford Public Schools, Stafford Springs, Connecticut on November 5, 2002 IS GRANTED and REMANDED TO SLD to the extent provided herein.

FEDERAL COMMUNICATIONS COMMISSION


Narda M. Jones
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau